

106TH CONGRESS  
1ST SESSION

# H. R. 1219

To amend the Office of Federal Procurement Policy Act and the Miller Act, relating to payment protections for persons providing labor and materials for Federal construction projects.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 1999

Mrs. MALONEY of New York (for herself, Mr. GEKAS, Mr. HORN, Mr. NADLER, Mr. KANJORSKI, Mr. SMITH of Texas, Mr. HINCHEY, Mr. SESSIONS, Mr. ANDREWS, Mr. DAVIS of Virginia, Mr. KUCINICH, and Mr. FILNER) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Office of Federal Procurement Policy Act and the Miller Act, relating to payment protections for persons providing labor and materials for Federal construction projects.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Construction Industry  
5       Payment Protection Act of 1999”.

1 **SEC. 2. ADDITIONAL RESPONSIBILITIES OF THE ADMINIS-**  
 2 **TRATOR FOR FEDERAL PROCUREMENT POL-**  
 3 **ICY.**

4 Section 6(d) of the Office of Federal Procurement  
 5 Policy Act (41 U.S.C. 405(d)) is amended—

6 (1) by redesignating paragraphs (9), (10), (11),  
 7 (12), and (13), as aragraphs (10), (11), (12), (13),  
 8 and (14), respectively; and

9 (2) by inserting after paragraph (8) the fol-  
 10 lowing new paragraph:

11 “(9) establishing appropriate Government-wide  
 12 policies and assuring Government-wide implementa-  
 13 tion through the Federal Acquisition Regulation of  
 14 policies assuring the timely payment of contractors,  
 15 subcontractors, sureties, and suppliers consistent  
 16 with existing laws, including chapter 39 of title 31,  
 17 United States Code (commonly known as the  
 18 “Prompt Payment Act”), the Miller Act (40 U.S.C.  
 19 270a–270d–1), and section 2091 of the Federal Ac-  
 20 quisition Streamlining Act of 1994 (Public Law  
 21 103–355; 108 Stat. 3306);”.

22 **SEC. 3. AMENDMENTS TO THE MILLER ACT.**

23 (a) **ENHANCEMENT OF PAYMENT BOND PROTEC-**  
 24 **TION.**—Subsection (a)(2) of the first section of the Miller  
 25 Act (40 U.S.C. 270a(a)(2)) is amended by striking the  
 26 second, third, and fourth sentences and inserting in lieu

1 thereof the following: “The amount of the payment bond  
2 shall be equal to the total amount payable by the terms  
3 of the contract unless the contracting officer awarding the  
4 contract makes a written determination supported by spe-  
5 cific findings that a payment bond in that amount is im-  
6 practical, in which case the amount of the payment bond  
7 shall be set by the contracting officer. In no case shall  
8 the amount of the payment bond be less than the amount  
9 of the performance bond.”.

10 (b) MODERNIZATION OF DELIVERY OF NOTICE.—  
11 Section 2(a) of the Miller Act (40 U.S.C. 270b(a)) is  
12 amended in the last sentence by striking “mailing the  
13 same by registered mail, postage prepaid, in an envelope  
14 addressed” and inserting “any means which provides writ-  
15 ten, third-party verification of delivery.”.

16 (c) NONWAIVER OF RIGHTS.—The second section of  
17 the Miller Act (40 U.S.C. 270b) is amended by adding  
18 at the end the following new subsection:

19 “(c) Any waiver of the right to sue on the payment  
20 bond required by this Act shall be void unless it is in writ-  
21 ing, signed by the person whose right is waived, and exe-  
22 cuted after such person has first furnished labor or mate-  
23 rial for use in the performance of the contract.”.

1 **SEC. 4. IMPLEMENTATION THROUGH THE GOVERNMENT-**  
2 **WIDE PROCUREMENT REGULATIONS.**

3 (a) **PROPOSED REGULATIONS.**—Proposed revisions  
4 to the Government-wide Federal Acquisition Regulation to  
5 implement the amendments made by this Act shall be pub-  
6 lished not later than 120 days after the date of the enact-  
7 ment of this Act and provide not less than 60 days for  
8 public comment.

9 (b) **FINAL REGULATIONS.**—Final regulations shall be  
10 published not less than 180 days after the date of the en-  
11 actment of this Act and shall be effective on the date that  
12 is 30 days after the date of publication.

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